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DOW, LOHNES & ALBERTSON. PLLC  
ATTORNEYS AT LAW

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BRIANA E. THIBEAU  
DIRECT DIAL 202-776-2284  
bthibeau@dowlohn.com

WASHINGTON, D.C.  
1200 NEW HAMPSHIRE AVENUE, N.W. • SUITE 800 • WASHINGTON, D.C. 20036-6802  
TELEPHONE 202-776-2000 • FACSIMILE 202-776-2222

ONE RAVINIA DRIVE • SUITE 1600  
ATLANTA, GEORGIA 30346-2108  
TELEPHONE 770-901-8800  
FACSIMILE 770-901-8874

December 10, 2002

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**VIA HAND DELIVERY**

DEC 10 2002

Marlene H. Dortch, Esquire  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Re: CC Docket No. 92-90**

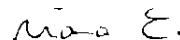
Dear Ms. Dorlch:

On behalf of Intuit Inc. ("Intuit"), we hereby submit for filing Intuit's comments in response to the FCC's Notice of Proposed Rulemaking regarding its regulations implementing the Telephone Consumer Protection Act of 1991. Intuit electronically filed a copy of these comments in CG Docket No. 02-278 on December 9, 2002, but received repeated error messages when attempting to file these comments in the second docket, CC Docket No. 92-90. We have enclosed for your review a copy of that error message as well as the confirmation receipt Intuit received when it electronically filed its comments in the 02-278 docket.

Accordingly, please accept as timely filed an original and four (4) copies of Intuit's comments for CC Docket No. 92-90.

Should you have any questions, please contact the undersigned.

Sincerely,



Briana E. Thibeau

Enclosures

cc (w/enclosures): Kelli Fanner (FCC)

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

DEC 10 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Rules and Regulations Implementing the ) C/G Docket No. 02-278  
Telephone Consumer Protection Act of 1991 ) C/G Docket No. 92-90  
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**COMMENTS OF INTUIT INC.**

I. Introduction

Intuit applauds and encourages the Commission's interest in updating the FCC's telemarketing regulations to improve consumer protection from abuse by companies that aggressively test the limits of regulation and from fraud by the inevitable bad actors. Thank you for the opportunity to comment on the Federal Communications Commission's Notice of Proposed Rulemaking regarding the agency's telemarketing rules and the creation of a national "Do Not Call" registry.

Intuit submits these comments with the hope that our commitment to customer satisfaction and our experience as a consumer conscious practitioner of telemarketing will be useful to the Commission's consideration of the issues raised by this rulemaking.

**Intuit also strongly encourages the Commission to work closely with the Federal Trade Commission and the states' attorneys general to develop a telemarketing sales regulatory framework that protects the consumer from real fraud and abuse, that is efficient in its operation and consistent in its application, and that does not burden business with unnecessary, duplicative or conflicting requirements.**

## II. Intuit Inc.

As a leading provider of business and financial management solutions for small businesses, consumers and accounting professionals, Intuit is extremely committed to customer care, satisfaction, and privacy. This commitment is particularly evidenced in how we manage our relationships with customers. The products and services Intuit provides allow customers to conveniently manage and at their discretion, share, highly sensitive financial information. Because customers ultimately control the flow of highly sensitive information to Intuit, Intuit's business depends in a very significant degree on the trust consumers have in our products and our practices. Fortunately as a result of both our sensitive practices and our products, Intuit enjoys the loyalty of many long time users of our flagship products and services, including QuickBooks®, Quicken® and TurboTax®.

We work very hard to ensure that our practices and policies continue to enhance and promote that trust, loyalty and confidence in our performance. We also understand that a significant part of creating this long-term customer satisfaction depends on maintaining robust and customer directed communication, including telemarketing. Thus, we are pleased to have this opportunity to comment.

## III. Comments

We look forward to a dynamic and ongoing dialogue with the Commission regarding the promulgation of new telemarketing rules. The following comments briefly describe the opportunities for positive change that we believe can be realized through this process, as well as note our concerns over potential negative consequences that could

result even from the best intentions without careful and deliberate consideration of the practical impact of any rule change.

- Opportunity for Rulemaking to Improve Harmonization Through Coordination, Efficiency and Consistency:

The FCC, the Federal Trade Commission and the states have an excellent opportunity through the Commission's and the FTC's current rulemaking proceedings to create a harmonized "do not call" regime that enhances consumer choice and protection, while at the same time not unnecessarily burdening businesses and their customers. The current, and growing, multiplicity of state and federal telemarketing rules, do not call lists and regulatory requirements is contrary to consumers' best interests, creates confusion for customers and business alike, and adds significant costs to doing business that are ultimately passed along to the consumer.

As the proliferation of conflicting state do not call laws and regulations continues at a fast pace, we advocate that the Commission seize this opportunity to provide leadership by bringing all the parties to the table to work out a solution that addresses the common goals of enhanced consumer protection from abuse and fraud without imposing untenable requirements and costs on businesses. In particular, Intuit encourages the Commission to examine the appropriate role that federal preemption of state do not call lists and rules may serve in creating increased uniformity, predictability and better consumer choice to the regulation of telemarketing practices.

Intuit believes that, consistent with the Communications Act of 1934's general preemptive effect over state regulation of interstate communications, in enacting the Telecommunication Consumer Protection Act (TCPA) Congress similarly intended that any federal do not call registry implemented by the Commission would preempt state do not call lists and their related procedural requirements. In fact, the House Report accompanying the TCPA noted that "the House Committee [] believes that because state laws will be preempted, the Federal statute must be sufficiently comprehensive and detailed [to] ensure States' interests are advanced and protected." See *House Report*, H.R. Rep. No. 102-317, at 20. Accordingly, the FCC should consider providing telemarketers with the option to comply with the national do-not-call rules in the case of interstate calls and the state do-not-call laws in the case of purely intrastate telemarketing campaigns.

- Company Specific Do Not Call Lists Maximize Consumer Choice:

Any manageable, national do not call registry likely would not allow consumers to choose the specific companies with which they would like to continue to communicate. As a result, company maintained do not call registries probably strike the best balance between consumer choice and privacy rights - providing the customer with the most flexibility regarding who may or may not call them. However, Intuit recognizes that new regulations regarding implementation of company specific do not call lists, stricter enforcement of existing regulations and stronger enforcement actions may be necessary to better protect consumers from

abusive practices that limit the consumer's ability to fully engage this system and to exercise their choice to be placed on a valid do not call list.

Additionally, Intuit recognizes that company specific do not call lists may not allow consumers who have never been contacted by or conducted business with a particular telemarketer to choose not to be contacted by phone. Intuit supports the Commission's and the FTC's desire to create a national, harmonized, coordinated and easy to use do not call registry that protects consumer choices. In that light, Intuit encourages the Commission to seek further comment from consumers and industry on any specific proposals regarding the creation of such a registry.

- Maintaining the Existing Business Relationship Exemption from the Telemarketing Sales Rule is Key to Robust Customer Communication and Dynamic Relationships:

The periodic renewal nature of Intuit's income tax products, as well as the multi-year life of Intuit's relationships with customers of our personal finance and business products, requires regular and ongoing communication through a variety of media, including telemarketing. Intuit customers have come to expect a phone call, email or direct mail piece to remind them to upgrade their version of Quicken, purchase the TurboTax update to assist with their income tax filing, or to keep apprised of new and innovative products and services.

At all times throughout the relationship, however, Intuit customers can choose not to receive any marketing or promotional communications from Intuit. This choice can be exercised via a variety of methods and at any time. Additionally, Intuit is excited

by a new program that will provide Intuit customers the ability to decide to receive notices and/or phone calls only about products they own and services they have used.

Arbitrary or lowest common denominator restrictions, such as time limits on the existing business relationship exemption, or requirements specifying the termination of that relationship absent a purchase or other monetary transaction, would impair consumer choice, and damage Intuit's ability to provide the level of service and provision of information that our customers have come to expect. For example, registered users of Intuit's online products and services (some of which are provided for free), or licensed users of Intuit's desktop software products, should not be considered to have terminated their existing business relationship simply because they have not made a purchase within a specified period of time.

- The Distinction Between Business and Residential Telephone Subscribers Should Better Recognize the Variety in How Business Is Conducted:

The TCPA distinguishes between telephone solicitations of individuals and businesses, and establishes higher standards and stricter limitations on telemarketing to individuals. Although these higher standards exist for good reason, the rules should not unnecessarily limit the choices available to commercial entities as to how they receive telemarketing solicitations.

Many Intuit customers operate small businesses out of their homes and utilize their residential phone line as their business contact number. In fact, many Intuit current or prospective business customers provide their home phone numbers to Intuit as a

preferred means of being contacted. The Commission should clarify that communications directed to home business telephone numbers under these circumstances should not be considered the equivalent of calls placed to residential subscriber lines. A broader definition of business phone number, as interpreted by the FTC and as prescribed, for example, by the Gramm Leach Bliley Act, would not adversely affect individuals' consumer protections, and would expand choice for business customers.

- The Reasonable and Responsible Use of Predictive Dialing Technologies Plays an Important Role in Reducing Telemarketing Costs:

Everyone agrees that dropped telemarketing calls caused by the use of predictive dialers are a nuisance - we have all experienced them and nobody likes them. Intuit agrees and with our customer's satisfaction in mind is continuously working to lower our dropped call rate when using predictive dialing technologies. Also, we believe that the customer must always be able to exercise choice, even when predictive dialing is utilized. Consequently, Intuit goes to great lengths to ensure that our caller ID information is transmitted whenever we use predictive dialing technologies so that individuals may contact us to place their name on the Intuit company specific do not call list.

Predictive dialing offers great benefits by keeping telemarketing costs low and by ensuring that customers receive information about upgrades, enhancements, new products and services in a timely and convenient manner. Although companies have a responsibility to their customers to manage their predictive dialing practices in a



manner that keeps dropped call rates low, governmental regulations aimed at mandating uniform acceptable dropped call rates are arbitrary and counter productive. The average length of telemarketing calls may vary widely depending on the nature of a particular company's products and services. These and other factors make it difficult and arbitrary to establish a single, acceptable dropped call rate. For many companies, complying with a governmentally prescribed dropped call rate would be cost prohibitive, and likely result in the abandonment of the technology, thereby leading to higher cost goods and services, less efficient telemarketing practices, and less relevant consumer information being disseminated to those who expect it. As a result, the Commission should preempt state laws mandating specific dropped call rates and instead encourage industry's attempts to adopt voluntary standards and to improve the customer experience through technological advances.

#### IV. Conclusion

We trust that the Commission will find the foregoing comments both informative and useful to its consideration of changes to the FCC's telemarketing rules and regulations. The Commissioners have a rare opportunity in this instance to help drive all regulatory parties with responsibility over telemarketing practices to a more harmonized and commonsense regime that protects consumers but does not sacrifice their choice or place unnecessary burdens and costs on American businesses. Again, thank you for this opportunity to provide comments on this important matter. We would be delighted to answer any follow up questions you may have.

Respectfully submitted,

**INIT1IT INC.**

/s/ Bernie F. McKay \_\_\_\_\_

Bernie F. McKay

Vice President of Government Affairs

**Federal Communications Commission**

**The FCC Acknowledges Receipt of Comments From ...  
Intuit Inc., Attn: Bernie McKay, V.P. Government Affairs  
...and Thank You for Your Comments**

Your Confirmation Number is: '2002129890980 '

Date Received: Dec 9 2002

Docket: 02-278

Number of Files Transmitted: 1

File Name	File Type	File Size (bytes)
COMMENT	Adobe Acrobat PDF	20835

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**Federal Communications Commission**

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